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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/892,408 | 06/27/2001 | Charles Wilson Colman | 17041 | 2161 |

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EXAMINER

ANDERSON, CATHARINE L

ART UNIT PAPER NUMBER

3761

DATE MAILED: 01/14/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/892,408

Applicant(s)

COLMAN ET AL.

Examiner

C. Lynne Anderson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 5-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over DiPalma et al. (5,649,916) in view of Dragoo et al. (5,460,622).

DiPalma discloses all aspects of the claimed invention with the exception of a first pulp.

With respect to claims 1-3, DiPalma discloses a personal care product 10, as shown in figure 1, comprising a liquid impermeable backsheet 14, a liquid permeable topsheet 12, and an absorbent composite 16. The absorbent composite 16 comprises an upper layer 18 made of a first material in an amount of 80% by weight and a second material that acts as a binder in an amount of 20% by weight, as disclosed in column 5, lines 10-14. The upper layer 18 has a density between about 0.03 and 0.06 g/cc, as disclosed in column 5, line 39. The absorbent composite 16 has a thickness of less than 4 mm, as disclosed in column 3, lines 41-42, and figure 1 shows the upper layer 18 comprising about half of the absorbent composite 16. Given a thickness of about 2 mm for the upper layer 18, the upper layer 18 has a basis weight of between about 60 and 120 gsm. The absorbent composite 16 further comprises a lower layer 20, described in

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column 6, lines 9-15, comprising material disclosed by Anderson et al. (4,100,324), having from 80 to 95% of pulp and less than 20% of a binder. The lower layer 20 has a basis weight of between 100 and 200 gsm, as disclosed in column 6, lines 30-31, and given a thickness of about 2 mm, as described above, has a density of 0.1 g/cc.

Dragoo discloses a personal care product 20 comprising an absorbent composite 28 having an upper layer 30. Dragoo discloses, in column 8, lines 25-30, pulp and polyester fibers to be art-recognized equivalents for use in the upper layer of an absorbent composite. It would therefore be obvious to one of ordinary skill in the art at the time of invention for the upper layer of DiPalma to comprise pulp, since due to the equivalence of pulp and polyester fibers for their use in the art the selection of any of these known equivalents would be within the level of ordinary skill in the art.

With respect to claim 5, the absorbent composite 16 comprises pulp fibers that inherently have a color. The absorbent composite 16 is therefore colored.

With respect to claims 6-10, the article 10 is a diaper, training pant, incontinence product, bandage, or feminine hygiene product, as disclosed in column 3, lines 1-5.

With respect to claims 11-13, DiPalma discloses all aspects of the claimed invention with the exception of the upper layer comprising 90% pulp and 10% binder. It would have been obvious to one of ordinary skill in the art at the time of invention to have the upper layer comprising 90% pulp and 10% binder, since it has been held that where the general conditions of a claim are disclosed in the art, discovering the optimum or workable ranges involves only routine skill in the art.

With respect to claim 14, the absorbent composite 16 is made by an airlaying process, as disclosed in column 5, line 34, and column 6, line 14.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over DiPalma et al. (5,649,916) in view of Dragoo et al. (5,460,622) and further in view of Arteman et al. (5,986,167).

DiPalma, as modified by Dragoo, discloses all aspects of the claimed invention with the exception of an apertured absorbent composite. Arteman discloses an absorbent composite for use in absorbent articles having a plurality of apertures, as shown in figure 2. The apertures provide the absorbent composite with improved rates of fluid intake and distribution, as disclosed in column 1, lines 53-65. It would therefore be obvious to one of ordinary skill in the art at the time of invention to provide the absorbent composite of DiPalma with apertures, as taught by Arteman, to improve the fluid intake and distribution of the absorbent composite.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over DiPalma et al. (5,649,916) in view of Dragoo et al. (5,460,622) and further in view of Sun et al. (6,322,665).

DiPalma, as modified by Dragoo, discloses all aspects of the claimed invention with the exception of debonded pulp. Sun teaches the use of debonded pulp for use in intake webs of absorbent article, as disclosed in column 14, lines 44-55. The addition of debonders to the webs results in a strong web that is also flushable. It would therefore

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be obvious to one of ordinary skill in the art at the time of invention to add a debonder to the upper layer of DiPalma, as modified by Dragoo, to provide a strong but flushable web, as taught by Sun.

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (703) 306-5716. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (703) 308-1957. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3590.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

CLA

cla

January 9, 2004

GLD

**GLENN K. DAWSON
PRIMARY EXAMINER**